

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



REASONS FOR THIS TRANSMITTAL

- ☐ State Law Change
- ☐ Federal Law or Regulation Change
- ☐ Court Order or Settlement Agreement
- ☐ Clarification requested by One or More Counties
- ☒ Initiated by CDSS

March 6, 1998

ALL COUNTY LETTER NO. 98-15

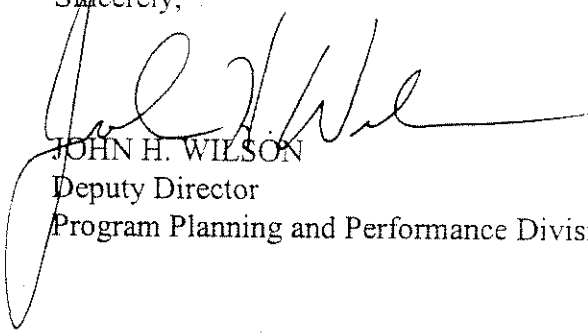
TO: ALL COUNTY WELFARE DIRECTORS
ALL REFUGEE COORDINATORS

SUBJECT: REVISION OF THE OFFICE OF REFUGEE RESETTLEMENT (ORR)
GUIDELINES FOR THE PLACEMENT OF UNACCOMPANIED MINORS

The purpose of this All-County Letter is to inform counties that ORR has revised guidelines for the placement of Unaccompanied Minors and to forward a copy of the revised guidelines. The revision is necessary to comply with provisions of a new federal law (Public Law 104-188) which affect the placement of minor children in foster care and other homes.

Please be advised the changes are effective immediately and should be implemented as soon as possible as appropriate.

Sincerely,


JOHN H. WILSON

Deputy Director

Program Planning and Performance Division

Enclosure



ADMINISTRATION FOR CHILDREN AND FAMILIES
370 L'Enfant Promenade, S.W.
Washington, D.C. 20447

ORR State Letter

98 - 1

Date: January 14, 1998

To : STATE REFUGEE COORDINATORS
VOLUNTARY AGENCIES

From : Lavinia Limon
Director
Office of Refugee Resettlement

Re : Revision of ORR Guidelines for Placement of Unaccompanied Minors in
Ethnically Matched Foster Homes

On October 14, 1987, the Office of Refugee Resettlement (ORR) published in the **Federal Register** (52 FR 38147) a Statement of Goals, Priorities, Standards, and Guidelines for the Unaccompanied Minor Refugee and Cuban/Haitian Entrant Programs (hereafter, referred to as simply "The Statement of Goals"). Among the provisions related to placement options, the Statement of Goals provided that service agencies must maintain, or have access to, a range of suitable placement options, including ethnically matched foster homes. The Statement of Goals indicated that, to the maximum extent possible, an agency must place children 12 years of age or younger in ethnically matched foster homes in order to "support their understanding of their native culture." (See Attachment A for the text of the Statement of Goals. The section on placement options is noted in the margin on page 38152.)

Last year, Congress passed the Small Business Job Protection Act of 1996 (Pub. L. 104-188), which included a provision which affects the placement of minor children in foster care and other homes. Section 1808 of this Act repealed section 553 of the Howard M. Metzenbaum Multiethnic Placement Act of 1994 (42 U.S.C. 5115a) and also added a new section, codified at 42 U.S.C. 1996b, which provides that an individual may not be denied an opportunity to become an adoptive or foster parent on the basis of the race, color, or national origin of the individual, or of the child involved. (See Attachment B for the text of section 1808(c): "Removal of Barriers to Ethnic Adoption.")

After reviewing the law and conferring with the Office of General Counsel, ORR has determined that its Statement of Goals conflicts with this new law. We have therefore revised the Statement of Goals to delete ethnically matched foster homes as a suitable placement option. In addition, the revised guideline shifts the focus for pre-teen placement from ethnic matching to linguistic compatibility. (See Attachment C for text of the revised "Options" guideline in the Statement of Goals.)

This change is effective upon receipt. If you have any questions, please contact Loren Bussert at (202) 401-4732.

Attachment A

Statement of Goals, Priorities, Standards, and Guidelines

Authority

Section 412(a)(6) of the Immigration and Nationality Act (the "INA"), as amended by the Refugee Act of 1980 (the "Act"), 8 U.S.C. 1522(a)(6):

As a condition for receiving assistance under this section, a State must . . . (B) meet standards, goals, and priorities, developed by the Director [of the Office of Refugee Resettlement], which assure the effective resettlement of refugees . . . and the effective provision of services . . .

Section 412(d)(2)(A) of the INA, 8 U.S.C. 1522(d)(2)(A):

The Director is authorized to provide assistance, reimbursement to States, and grants to and contracts with public and private nonprofit agencies, for the provision of child welfare services, including foster care maintenance payments and services and health care . . .

Section 412(d)(2)(B) of the INA, 8 U.S.C. 1522(d)(2)(B):

(i) In the case of a refugee child who is unaccompanied by a parent or other close adult relative (as defined by the Director), the services described in subparagraph (A) may be furnished until the month after the child attains eighteen years of age (or such higher age as the State's child welfare services plan under part B of title IV of the Social Security Act prescribes for the availability of such services to any other child in that State).

(ii) The Director shall attempt to arrange for the placement under the laws of the States of such unaccompanied refugee children, who have been accepted for admission to the United States, before (or as soon as possible after) their arrival in the United States. During any interim period while such a child is in the United States or in transit to the United States but before the child is so placed, the Director shall assume legal responsibility (including financial responsibility) for the child, if necessary, and is authorized to make necessary decisions to provide for the child's immediate care.

Title V of the Refugee Education Assistance Act of 1980, enacted on October 10, 1980, provides for Federal assistance and services to individuals having Cuban/Haitian Entrant status. Under this Act, the President is required to exercise authorities identical to those under chapter 2 of title IV of the Immigration and Nationality Act (INA) with respect to Cuban/Haitian entrants.

Background

On January 30, 1986, ORR published final regulations (45 CFR Part 400, Subpart H, Child Welfare Services), prescribing requirements concerning grants to States under section 412(d)(2)(B) of the INA for child welfare services to unaccompanied minor refugees. In addition, between February 14, 1985, and June 12, 1986, an interagency work group composed of institutional entities active in the

Unaccompanied Minors Program met periodically and developed a series of criteria against which individual agencies could be evaluated, and as a basis for determining allocation of future cases. A Proposed Statement of Program Goals, Priorities, Standards, and Guidelines evolved from these two documents, the Standards being elaboration of Subpart H of the Regulations, and the Guidelines reflecting recommendations adopted by the work group. The Proposed Statement was published in the Federal Register of November 5, 1986, inviting public comments until December 22, 1986. In addition, the Proposed Statement was distributed and explained at a National Conference on Unaccompanied Minor Refugees November 17, 1986, in Philadelphia, with attendees given the opportunity to comment verbally at that time; their verbal comments were transcribed and considered, along with the written comments received, in the development of this final Statement.

Discussion of Comments

ORR received 18 letters from State government agencies, national and local voluntary agencies, and service providers. In addition, seven persons representing similar agencies offered comments at the Philadelphia conference. The following sections address specific points which commenters raised:

1. 90-Day Parental Reunion

Comment: Fifteen commenters expressed the concern that the proposed 90-day period during which ORR would support services to unaccompanied minor refugees following arrival of a parent in the United States was inadequate in some particularly difficult cases. Most acknowledged that for the vast majority of such cases, 90 days was sufficient, but they cited instances in which difficulties were encountered in reuniting a child, who had been separated from his or her parents and placed in a new environment during a particularly volatile stage of development, with his or her newly arrived parent who was unprepared for the cultural and developmental changes of the child. They urged flexibility in implementing this provision.

Response: ORR expects that the overwhelming majority of cases involving parental reunification can be accommodated under the 90-day period, or through foster care assistance under title IV-E of the Social Security Act, or through Refugee Child Welfare Services. However, in order to take into consideration the rare case that might

Office of Refugee Resettlement**Refugee Resettlement Program; Statement of Goals, Priorities, Standards, and Guidelines for the Unaccompanied Minor Refugee and Cuban/Haitian Entrant Programs****ACTION:** Final notice.

SUMMARY: This notice establishes goals, priorities, standards, and guidelines for the Unaccompanied Minor Refugee and Cuban/Haitian Entrant Programs. The Standards are amplifications of Office of Refugee Resettlement (ORR) child welfare regulations (45 CFR Part 400, Subpart H, §§ 400.110-400.120). The Guidelines in most cases reflect recommendations of a National Interagency Work Group on Unaccompanied Minors.

A proposed statement was published in the Federal Register of November 5, 1986 (51 FR 40260). This final statement reflects changes made in response to the public comments received, which are discussed below.

EFFECTIVE DATE: October 14, 1987.

ADDRESS: Office of Refugee Resettlement, Room 1229 Switzer Building, 330 C Street SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: William R. Eckhof, (202) 245-0800.

SUPPLEMENTARY INFORMATION:

not be accommodated by these means, we have amended the policy statement to provide that the Director of ORR may extend the 90-day period in a compelling case with the objective of encouraging family reunion and strengthening the refugee family. This change appears in the section on Legal Considerations, Standard B, Criterion 3.

2. Parental Reunification

Comment: One commenter stated that he believed that parental reunification is not always the best option for unaccompanied minor refugees and that unaccompanied minor status should be continued in such instances.

Response: While recognizing that this may be the case in a very limited number of instances, ORR notes congressional intent to provide funding for unaccompanied minors in the absence of their parents who normally would be expected to provide for them.

ORR's concern for the well-being of the child in such an instance must be weighed against the limitations of statutory authority and legislative intent which limit our ability to continue to provide funding for formerly unaccompanied minors whose parent or parents have reached the United States.

Two other avenues of funding for cases where there is a barrier to parental reunification are: (1) Possible conversion of the case to funding under the foster care authority of title IV-E of the Social Security Act; or (2) payment of support costs (from ORR's social service grant to the State) through the authority for refugee child welfare services, as outlined in 45 CFR Part 400, Subpart H, if the child has been in the United States less than 36 months.

Unaccompanied minor refugees normally are not eligible for support under title IV-E because reunion with their parents is not possible due to geographic considerations. The arrival of a child's parent(s) may make such eligibility possible if reunification is not in the best interest of the child.

3. Program Services and Benefits

Comment: Eight commenters objected to the proposed Administration/Management Standard B, Criterion 2, which required that "State rules and regulations provide the same child welfare services and benefits for refugee children, to the same extent, as those which are provided to other children of the same age in the State under a State's title IV-B plan, and in accordance with the State's child welfare standards, practices, and procedures." The commenters cited special needs of unaccompanied minor refugees, which

they felt would not be met under this standard.

Response: This standard is based on program regulations at 45 CFR 400.116(a). It is intended to insure that refugee children, at a minimum, receive such services, consistent with their legal rights in the U.S. Section 400.116(b) allows additional services, if reasonable and necessary, if the ORR Director authorizes them. The language "at a minimum" has been inserted in Criterion 2 to clarify our intent and to address the commenters' concern.

4. Ethnically Matched Foster Parents

Comment: Three commenters stressed the desirability of placing unaccompanied minor refugees with ethnically matched foster parents. One of these commenters expressed the view that all other types of placement should be excluded.

In contrast, two other commenters objected to the guideline which calls for placing children under age 12 in ethnically matched foster homes "to the maximum extent feasible."

Response: The National Work Group recognized the importance of the availability of ethnically matched foster parents, as evidenced by Guidelines C. 1 and 2. Moreover, Guideline E focuses on efforts to help a child retain an understanding of, and respect for, his or her native culture and religion.

The National Work Group on several occasions regarded its approach as described in Guideline C.1 as adequate, and ORR is not persuaded to change this approach which we believe provides a needed measure of flexibility while emphasizing the importance of ethnically matched foster parents.

5. Adoption Procedures

Comment: Several commenters expressed concern that inasmuch as attempts to contact natural parents were discouraged by both the standards and 45 CFR Part 400 Subpart H, it would be difficult for a court to assure the protection of parental rights as specified in Legal Considerations, Criterion 5. One commenter opposed any adoption of unaccompanied minor refugees, and another asked for more detailed guidelines to assist the court in determining if parental rights might be terminated.

Response: In most cases, termination of parental rights will not be legally possible. These children were generally separated from their parents by forces beyond their control—by war and by political and social upheaval—and reunification is the basic objective of the program.

However, 45 CFR 400.115(c) allows for adoption when it is (1) in the best interest of the child and (2) there is termination of parental rights as determined by the appropriate State court, as when parents are dead or are missing and presumed dead. ORR, taking into consideration the wide number of variables in State law throughout the country, believes that such cases must be decided on their own merit, on a case-by-case basis, by local courts empowered to make such decisions based on State law and the best evidence available.

6. Bilingual Workers

Comment: Three commenters stated that bilingual workers might not always be available or be cost-effective to utilize.

Response: The National Work Group felt strongly about the need for good communication with the children under care as a cornerstone of an effective program, a view which ORR strongly supports. For this communication, bilingual workers are clearly required.

7. Caseworker Training

Comment: Three commenters felt that the proposed 50 hours per year of caseworker training would be excessive and unnecessary. A fourth commenter stated that no special training for caseworkers working with refugee youths was being provided in his State.

Response: The National Work Group expressed great concern during its deliberations about the need for training in order to meet the special needs of refugee children. At a time of program constriction, however, and in response to comments, ORR has lowered this period to 30 hours, with the understanding that this represents a minimum, and not necessarily a maximum, of training time, which should be determined by the specific needs of caseworkers.

8. Replacement Rates

Comment: The proposed guideline on placement options specified that (with certain exceptions for temporary care) no more than 30% of a provider agency's existing caseload have had more than two placements and no more than 10% have had more than three placements. Six commenters expressed concern that this guideline would counter-productively encourage agencies to leave children in unsuitable care rather than exceed the recommended replacement rates.

Response: In adopting this guideline, the National Work Group weighed such potential counter-productivity against

the importance of agency care in selecting foster parents. Work-group members, including provider-agency representatives, felt that the margins for change in placements which are permitted by the guideline are adequate to address the concern expressed by the commenters, and ORR is not persuaded to change this decision.

9. Cost-effective Program Size

Comment: Seven persons questioned the implications for the programs of public provider agencies of the guideline which stated that 30 children was the minimum-size program that could be expected to be cost-effective.

Response: The 30-child caseload was intended by the National Work Group to apply to contracted private provider agencies, and not to whatever size caseload might be under the care of a public child welfare agency. We have revised the wording of this criterion to make clear that it refers to "private, voluntary provider-operated local programs."

ORR envisions that private provider agencies whose caseloads are expected to drop below the 30 level within the next 12 months will plan for appropriate administrative adjustments to assure continued cost-effectiveness.

With respect to public agencies, good child welfare practice would seem to require that public agencies with an unaccompanied minor refugee caseload maintain culturally appropriate resources for as long as necessary, regardless of the number of children served.

10. Reunification of Amerasian Unaccompanied Minors

Comment: Three persons requested a statement of ORR policy with respect to reunification of Amerasian unaccompanied minors with their (American) fathers, when the names and whereabouts of the fathers are known.

Response: ORR has no intent to press for such reunifications unless they are desired by both the child and the father. When they do occur, unaccompanied minor status would terminate and the father would be expected to assume legal (and financial) responsibility.

11. "Least Restrictive Care Settings"

Comment: Two commenters asked ORR to clarify the meaning of the term "least restrictive care settings" as it appears in the section of the Statement entitled "Priorities for State Program Administration."

Response: The term "least restrictive care setting" in the child welfare context refers to the smallest and most open type of placement that is manageable,

considering the needs of the child being served.

12. Completion of High School

Comment: Two commenters suggested that ORR funding for well-motivated unaccompanied minors should be allowed to enable them to complete high school, even if it required them to remain in care beyond their 21st birthday. A third commenter proposed that the age limit be reduced to age 17 to conform with AFDC-PC age requirement regulations.

Response: The Refugee Act requires that eligibility for unaccompanied minor status be consistent with the State's title IV-B plan "for the availability of such services to any other child in that State." (Section 412(d)(2)(B)(i) of the INA.) Therefore ORR cannot set higher or lower ages of eligibility that differ from a State's title IV-B plan.

13. Case Planning

Comment: One commenter noted that Programmatic Standard A, Case Planning, is not consistent with his State's procedure, policy, and program guidelines for administration of the unaccompanied minors program, and asked for clarification.

Response: This standard is based upon regulations governing operation of the unaccompanied minors program at 45 CFR 400.118 which carries with it the force of law.

14. Applicability of Title IV-E

Comment: One commenter stated that the reference to title IV-E in Administration/Management Standard B, Criterion 3, was irrelevant because, in most cases, unaccompanied minor refugees are ineligible for services under that title.

Response: This criterion is based on ORR child welfare regulations at 45 CFR 400.112(c). ORR recognizes that most unaccompanied minors will not be eligible under title IV-E but feels that in the few instances where such eligibility can be established, funding should be through that mechanism, with ORR providing the share of costs that normally would be borne by the State or local government.

15. Establishing Legal Responsibility

Comment: Three commenters asked for clarification of Legal Considerations Standard A, Criterion 1, which requires that, within 30 days of a child's arrival, the State or State-authorized child welfare agency petition an appropriate court to establish legal responsibility (if action by a court is required by State law).

Response: ORR recognizes that a variety of State legal mechanisms are used to establish responsibility for unaccompanied minor refugees. In some States, responsibility is established within hours of arrival, while, in others, backlogged dockets and court procedures can delay formal establishment of legal responsibility for weeks. ORR's intent is to assure that the process ultimately leading to legal responsibility is commenced promptly (within 30 days) while allowing sufficient flexibility for the State legal system to function normally.

16. Filing of Reports

Comment: One commenter stated that the Administrative/Management Standard C, Criterion 4, requiring the filing of a placement report within 30 days of a child's arrival, provided an unrealistically brief period.

Response: This standard is based on existing regulations at 45 CFR 400.120(s). In view of the Refugee Act's requirement for maintaining current lists of unaccompanied minor refugees, ORR considers this requirement to be both justified and important.

17. Tracking of Children

Comment: One commenter suggested that ORR should require semi-annual, rather than annual, progress reports (ORR-4) on unaccompanied minors to improve tracking of the children.

Response: ORR believes that properly filed ORR-3 Placement Reports together with annual ORR-4 Progress Reports will permit adequate tracking, and that doubling the progress-report workload would yield little aggregate national information while increasing the workload of caseworkers.

18. Religious Heritage

Comment: One commenter questioned the reference, in Programmatic Standard A, Criterion 1, relating to "preservation of . . . religious heritage," expressing the belief that the unaccompanied minor should be accorded "freedom to attend or not attend religious ceremonies."

Response: The language of this standard is taken from existing program regulations at 45 CFR 400.118(b)(6), and ORR is not persuaded of the need for changing the regulatory language.

19. Health and Mental Health Plans

Comment: One commenter asked how frequently ORR expected that the health/mental health plan described in the Health and Mental Health Guideline would be updated.

Response: ORR expects that the plan would be current, in order to be available in case of emergency.

20. Program Audit

Comment: One commenter proposed that the statement include a section defining standards and responsibility for program audits, in order to assess cost-effectiveness.

Response: ORR believes that the financial records currently required, which must meet HHS grant requirements, are adequate for effective audit purposes.

Statement of Goals, Priorities, Standards, and Guidelines for the Unaccompanied Minor Refugee and Cuban/Haitian Entrant Programs

Introduction

Basis and Purpose of the Program

It is the basis and purpose of the program to provide appropriate care, consistent with State and Federal child welfare laws and practices, for unaccompanied minor refugees and entrants and to prepare them for productive lives in the United States.

To ensure the most effective possible resettlement of unaccompanied minor refugees in the United States consistent with and as mandated by the applicable provisions of the Refugee Act of 1980, as well as compliance with 45 CFR Part 400, Subpart H, "Child Welfare Services," the Office of Refugee Resettlement (ORR) establishes the following program goals, priorities, standards, and guidelines for the State-administered refugee resettlement program (RRP) for FY 1988 and the following fiscal years. These goals and standards will be applied to the Cuban/Haitian Entrant Unaccompanied Minor Program, for the States which participate in that program.

Definitions

The provider agency. An organization, either public or private, which provides placement and direct service to the unaccompanied minor.

The supervising agency. The public agency, either State or local, which supervises the provider agency.

The contracting agency. The public agency which either contracts with a private contractor or a county for care of the child.

I. Program Goals

The goals of the program for unaccompanied minor refugees and entrants are:

To reunify unaccompanied refugee children with their parents or, within the

context of State child welfare practice, with non-parental adult relatives.

To help unaccompanied minors develop appropriate skills to enter adulthood and to achieve economic and social self-sufficiency, through delivery of child welfare services in a culturally sensitive manner.

II. Priorities for State Program Administration

To place unaccompanied minor refugees and entrants in least restrictive care settings as soon as possible, and to establish legal responsibility in such a way, under State law, as to ensure that these children receive the full range of assistance, care, and services to which all children in the State are entitled, and to designate a legal authority to act in place of the child's unavailable parent(s).

To encourage reunification of minors with their parents, or other appropriate adult relatives, and to work with supportive resources, such as voluntary refugee resettlement agencies, at the State and local levels, to facilitate such reunion.

To provide child welfare services and refugee-specific services that will help children adjust to their communities, with emphasis on those services most likely to help children prepare for emancipation/self-supporting status, appropriate to their age and development. States should strive to ensure provision of services in a cost-effective manner. Cost should generally parallel those of the State's regular domestic child welfare program, except where consideration given to unique cultural, language, and psychological needs of the refugee clientele mandates different costs.

In attempting to arrange placement of unaccompanied minor refugees under State child welfare laws, to make every effort to ensure a cooperative and effective working relationship between the State, voluntary agencies, and provider agencies participating in the Refugee and Entrant Unaccompanied Minors Programs.

III. Program Standards

The program for unaccompanied minor refugees requires a unique blend of services and program management, with specific cognizance of both refugee resettlement concerns and child welfare practices. Likewise, it requires a high degree of cooperation, coordination, and planning among numerous entities at various levels.

In requiring the Director of the Office of Refugee Resettlement to "attempt to arrange for the placement under the laws of the State . . . of

unaccompanied minor refugees, the Refugee Act implies an effort by the Director to effect this cooperation, coordination, and planning. In consequence, the Director of the Office of Refugee Resettlement hereby establishes the following standards for operation of the State-administered unaccompanied minor refugee and entrant program. Compliance with these standards is mandatory.

Administration/Management

A. Annual Planning

Standard: A cooperative, effective, well-coordinated, and culture-sensitive working relationship exists among agencies involved in the unaccompanied minors program.

Criterion: A State or county supervising and/or contracting agency for refugee children confers at least annually with provider agencies therein to discuss program needs and problems and to establish numbers of children to be served in the coming year within the State.

B. State Leadership Role

Standard: The State provides adequate organizational leadership and administrative support for the State unaccompanied minors program.

Criteria: 1. Basic requirements of 45 CFR 400.5 (Refugee Resettlement Program State Regulations) and 45 CFR 400.110-400.120 are in place and are adhered to.

2. State rules or regulations provide at a minimum the same child welfare services and benefits for refugee children, to the same extent, as those which are provided to other children of the same age in the State under a State's title IV-B plan, and in accordance with the State's child welfare standards, practices, and procedures.

3. The State provides foster care maintenance payments under the State's title IV-E program to any refugee children eligible under that program.

4. Rules, regulations, and procedures are in place whereby the State assumes program accountability for all aspects of the program, including fiscal and program reporting.

5. The program is structured within State government in such a way that meaningful input into programmatic issues is provided by both the State's refugee program and child welfare staffs.

6. State goals and objectives do not alter or infringe upon program goals of ORR as set forth herein.

7. Child welfare services, assistance procedures, and facilities meet

recognized standards consistent with the State Plan pursuant to title IV-B of the Social Security Act.

C. Monitoring and Reporting

Standard: The State effectively monitors services to unaccompanied minor refugees and entrants.

Criteria: 1. Written State procedures, consistent with the State's Refugee Resettlement Plan, ensure that the appropriate supervising child welfare agency monitors activity of the provider agency at least annually.

2. The monitoring instruments reflect regular State standards for foster care, and ORR standards for unaccompanied minors care as applicable.

3. Corrective actions are taken promptly on problems identified during fiscal and program monitoring.

4. All ORR-3 (Placement) Reports are filed with ORR within 30 days of the date of placement, and within 60 days of a change of status (e.g., change of placement or legal responsibility, reunification with adult relatives, and termination from the program (e.g., emancipation or reunification with parent(s))).

5. All ORR-4 (Progress) Reports are filed with ORR annually.

Legal Considerations

A. Legal Responsibility

Standard: Legal responsibility is established promptly under State child welfare laws.

Criteria: 1. The State or State-authorized child welfare provider agency petitions an appropriate court to establish legal responsibility within 30 days of the child's arrival at the location of resettlement and placement, if action by a court is required by State law.

2. The section of State law under which legal responsibility is established makes the unaccompanied minor eligible for the full range of assistance, care, and services to which all children in the State are entitled.

3. The section of State law under which legal responsibility is established designates a legal authority to act in place of the child's unavailable parent(s).

4. Procedures exist to ensure that mechanisms of the Interstate Compact on Placement of Children are utilized when an interstate placement is required subsequent to initial placement.

5. Procedural safeguards exist which ensure that the rights of the minor's unavailable parent(s) are protected, and are not terminated as long as reunification with the parents remains

reasonably possible, as determined by an appropriate State court.

B. Family Reunion

Standard: Written State policy encourages the reunion in the United States of unaccompanied minor refugees with their parents or other appropriate relatives.

Criteria: 1. Programs for unaccompanied minor refugees are located in areas which have, or have ready access to, existing refugee resettlement agencies which are able to assist in family reunion.

2. Children are encouraged to apply for admission of their parents to the United States, and are assisted with preparation of the necessary documentation, including applications.

3. When reunion becomes possible following arrival of a parent or parents in the United States, the provider agency assists children and parent(s) in the process, as necessary, for up to 90 days after the agency has knowledge of the presence of the parents, after which ORR unaccompanied minor benefits cease, unless the Director of ORR has extended the time period beyond 90 days by specific waiver.

Programmatic

A. Case Planning

Standard: The unaccompanied minor is provided appropriate child welfare and refugee-specific services to develop the skills necessary for social, emotional, and economic self-sufficiency.

Criteria: 1. State regulations or rules provide that a written case plan for the care and supervision of each child, including a service plan, leading to non-dependent emancipation or family reunion, is developed, and reviewed for each child semi-annually. The case plan at a minimum addresses each of the following areas:

- Social adjustment
- English language training
- Career planning
- Education/training as appropriate
- Health needs
- Suitable mode of care in the least restrictive setting
- Development of socialization skills
- Family reunification
- Preservation of ethnic and religious heritage
- Mental health needs, if necessary.

IV. Guidelines for Program Development

The Director of the Office of Refugee Resettlement further establishes the following Guidelines for Program Development, developed by a special

national work group of experts in care for unaccompanied minors, composed of representatives of national voluntary agencies, local provider agencies, State government, the Department of State, and ORR. These guidelines are strongly recommended by the Director as a yardstick against which current provider activities may be evaluated by State or county supervising/contracting agencies, and against which possible future placements may be planned by national voluntary agencies.

A. Cost-Effectiveness

Guideline: The program is administered in a cost-effective manner.

Criteria: 1. Costs for refugee children are consistent with costs for other children in care in the State.

2. Cost is a consideration when evaluating overall program effectiveness, but should not exist as an isolated criterion. Minimum program standards must be addressed at first as a context from which to evaluate the effectiveness and costs of unaccompanied minors programs.

3. To assure effective staff utilization and to provide a sufficiently broad range of services and types of care, at least 30 children are participating in private, voluntary provider-operated local programs.

4. The provider agency attempts to access non-ORR funded resources (such as the Job Training Partnership Act, Job Corps, vocational education, scholarships to preparatory schools and colleges).

B. Provider-Agency Staff Qualifications

Guideline: A well-qualified provider-agency staff is utilized to provide services.

Criteria: 1. Supervisors, at a minimum, meet established State standards for persons providing similar services in non-refugee child care agencies.

2. The provider agency has on-staff (a) bilingual, bicultural worker(s) specific to the clientele served.

3. The bilingual, bicultural worker(s) are utilized as an integral part of the program's service function, and not merely as translator(s).

4. Bilingual, bicultural workers are encouraged to actively pursue training opportunities that will help them to become qualified under State standards.

5. At least 30 hours, annually, of ongoing, planned staff development activities are provided for each staff member, including program supervisors, directly involved in provision of services.

6. The direct-services staff ratio of clients to service workers is not greater

than the State's standard for non-refugee child care.

C. Placement Options

Guideline: The provider agency maintains, or has access to, a range of suitable placement options.

Criteria: 1. Placement options include family foster homes, ethnically matched foster homes, group homes, and supervised independent living.

2. To the maximum feasible extent, children 12 years of age and younger are placed in ethnically matched foster homes to support their understanding of their native culture.

3. No more than 30 percent of the existing caseload have had more than two placements (exclusive of placements in reception centers, reception homes, temporary/emergency placements not exceeding 45 days, or planned independent living situations).

4. No more than 10 percent of the existing caseload have had more than three placements (same exclusions as item 3 above).

5. Before family foster care is utilized, the foster family receives training and information related to cultural sensitivities of the caseload.

D. Preparation for Emancipation

Guideline: The program actively and formally promotes the responsible emancipation of unaccompanied minors.

Criteria: 1. Program components provide independent living skills services to assist unaccompanied minors to prepare adequately for emancipation without reliance on public assistance.

2. The public cash assistance dependency rate for employable former unaccompanied minors, subsequent to their emancipation, is no greater than 10 percent of all the provider agency's refugee emancipees 90 days following emancipation.

3. State law is sufficiently flexible to permit an unaccompanied minor to remain in care through the completion of high school (but not beyond the 21st birthday).

E. Retention of Ethnic Heritage

Guideline: Children are encouraged to retain an understanding of, and respect for, their native culture and religion.

Criteria: 1. Programs for unaccompanied minor refugees are located in geographic areas which have ethnic communities similar to those of the children placed.

2. Children are placed within ethnically similar communities, or in areas that are readily accessible to the activities of those communities.

3. Provider agencies maintain a written plan and periodic schedule for exposure to and participation in appropriate cultural events.

F. Health and Mental Health

Guideline: Children are provided with necessary health and mental health services.

Criteria: 1. The provider agency maintains ongoing access to health and mental health services.

2. The provider agency has a written contingency plan involving identification of potential resources for coping with cases of severe mental health disorders.

Dated: September 24, 1987.

Bill Gee,

Director, Office of Refugee Resettlement

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SELLING CODE 1100-04-0

Attachment B

Section 1808(c) of Public 104-188

Removal of Barriers to Ethnic Adoption

fiscal year quarter with respect to any person shall remit to the Secretary all funds that were paid by the State to the entity during the quarter from such funds.

"(3)(A) Any individual who is aggrieved by a violation of section 471(a)(18) by a State or other entity may bring an action seeking relief from the State or other entity in any United States district court.

"(B) An action under this paragraph may not be brought more than 2 years after the date the alleged violation occurred.

"(4) This subsection shall not be construed to affect the application of the Indian Child Welfare Act of 1978."

(c) CIVIL RIGHTS.—

(1) PROHIBITED CONDUCT.—A person or government that is involved in adoption or foster care placements may not—

(A) deny to any individual the opportunity to become an adoptive or a foster parent, on the basis of the race, color, or national origin of the individual, or of the child, involved; or

(B) delay or deny the placement of a child for adoption or into foster care, on the basis of the race, color, or national origin of the adoptive or foster parent, or the child, involved.

(2) ENFORCEMENT.—Noncompliance with paragraph (1) is deemed a violation of title VI of the Civil Rights Act of 1964.

(3) NO EFFECT ON THE INDIAN CHILD WELFARE ACT OF 1978.—This subsection shall not be construed to affect the application of the Indian Child Welfare Act of 1978.

(d) CONFORMING AMENDMENT.—Section 553 of the Howard M. Metzenbaum Multiethnic Placement Act of 1994 (42 U.S.C. 5115a) is repealed.

SEC. 1809. 6-MONTH DELAY OF ELECTRONIC FUND TRANSFER REQUIREMENT.

Notwithstanding any other provision of law, the increase in the applicable required percentages for fiscal year 1997 in clauses (i)(IV) and (ii)(IV) of section 6302(h)(2)(C) of the Internal Revenue Code of 1986 shall not take effect before July 1, 1997.

Subtitle I—Foreign Trust Tax Compliance

SEC. 1901. IMPROVED INFORMATION REPORTING ON FOREIGN TRUSTS.

(a) IN GENERAL.—Section 6048 (relating to returns as to certain foreign trusts) is amended to read as follows:

"SEC. 6048. INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) NOTICE OF CERTAIN EVENTS.—

"(1) GENERAL RULE.—On or before the 90th day (or such later day as the Secretary may prescribe) after any reportable event, the responsible party shall provide written notice of such event to the Secretary in accordance with paragraph (2).

"(2) CONTENTS OF NOTICE.—The notice required by paragraph (1) shall contain such information as the Secretary may prescribe, including—

"(A) the amount of money or other property transferred to the trust in connection with the event, and

"(B) the identity of the trust and the beneficiary (or class of beneficiaries) of the trust.

"(3) REPORTABLE EVENT.—For purposes of this section—

"(A) IN GENERAL.—The term 'reportable event' means—

"(i) the creation of any foreign trust by a United States person,

"(ii) the transfer of any money or other property (directly or indirectly) to a foreign trust by a United States person, including a transfer by reason of the death of a citizen or resident of the United States if—

"(I) the decedent was treated as a resident of a foreign country for purposes of subpart E of part I of chapter 1, or

"(II) any portion of a foreign trust was included in the gross estate of the decedent.

"(B) EXCEPTIONS.—

"(i) FAIR MARKET VALUE SALE.—A sale of property shall not apply to any transfer of property in exchange for consideration if the fair market value of the transferred property at the time of the transfer is less than the cash value of the property at the time of the transfer.

"(ii) DEFERRED COMPENSATION.—Subparagraph (A) shall not apply to any transfer of property to a trust which is—

"(I) described in section 402(a)(4), or

"(II) determined by the Secretary under the provisions of section 501(c)(3).

"(4) RESPONSIBLE PARTY.—For purposes of this section, the term 'responsible party' means—

"(A) the grantor in the case of the inter vivos trust,

"(B) the transferor in the case of a trust described in paragraph (3)(A)(ii) other than the reason of death, and

"(C) the executor of the decedent's estate in the case of a trust described in paragraph (3)(A)(ii).

"(b) UNITED STATES GRANTOR OF FOREIGN TRUST.—If, at any time during the life of a United States person, such person is treated as the owner of any portion of a foreign trust under the provisions of subchapter J of chapter 1, such person shall be responsible to ensure that—

"(A) such trust makes a return for such year as the Secretary may prescribe, and such return shall set forth a full and complete accounting of the trust's assets and operations for the year, the name of the United States agent for such trust, and such other information as the Secretary may prescribe, and

"(B) such trust furnishes such information to the Secretary as the Secretary may prescribe to each United States person who is a beneficiary of the trust.

"(c) UNITED STATES BENEFICIARY OF FOREIGN TRUST.—If, at any time during the life of a United States person, such person is treated as the owner of any portion of a foreign trust under the provisions of subchapter J of chapter 1, such person shall be responsible to ensure that—

"(A) such trust makes a return for such year as the Secretary may prescribe, and such return shall set forth a full and complete accounting of the trust's assets and operations for the year, the name of the United States agent for such trust, and such other information as the Secretary may prescribe, and

"(B) such trust furnishes such information to the Secretary as the Secretary may prescribe to each United States person who is a beneficiary of the trust.

"(d) UNITED STATES GRANTOR OF FOREIGN TRUST.—If, at any time during the life of a United States person, such person is treated as the owner of any portion of a foreign trust under the provisions of subchapter J of chapter 1, such person shall be responsible to ensure that—

"(A) such trust makes a return for such year as the Secretary may prescribe, and such return shall set forth a full and complete accounting of the trust's assets and operations for the year, the name of the United States agent for such trust, and such other information as the Secretary may prescribe, and

"(B) such trust furnishes such information to the Secretary as the Secretary may prescribe to each United States person who is a beneficiary of the trust.

42 USC 1996b.

6 USC 6302
note.

Attachment C

Revised Text of the Statement of Goals, Priorities, Standards, and Guidelines

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C. Placement Options

Guideline: The provider agency maintains, or has access to, a range of suitable-placement options.

- Criteria:*
1. Placement options include family foster homes, group homes, and supervised independent living.
 2. To the extent necessary for the best interests of the child, limited English-speaking children 12 years of age and younger are placed in linguistically matched foster homes, to facilitate communication.
 3. No more than 30 percent of the existing caseload have had more than two placements (exclusive of placements in reception centers, reception homes, temporary/emergency placements not exceeding 45 days, or planned independent living situations).
 4. No more than 10 percent of the existing caseload have had more than three placements (same exclusions as item 3 above).
 5. Before family foster care is utilized, the foster family receives training and information related to cultural sensitivities of the caseload.

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